

## Important Tax Issue for Immigrants in Medi-Cal

As this year's federal tax-filing deadline of Tuesday, April 18, approaches, we want to alert you to a major issue for some Medi-Cal beneficiaries who are receiving full-scope Medi-Cal. **The Department of Health Care Services (DHCS) has deemed that any state-only Medi-Cal program is *not* minimum essential coverage and thus does not satisfy the individual mandate of the Affordable Care Act.**<sup>1</sup> Advocates continue to argue with DHCS over this distinction as full-scope Medi-Cal benefits and services are *exactly the same* regardless of whether the Medi-Cal is paid for using state or federal funds.<sup>2</sup> State-funded, full-scope Medi-Cal beneficiaries are typically immigrants claiming PRUCOL (Permanently Residing Under Color of Law status)<sup>3</sup> or immigrants who have not yet been in a qualifying immigration status for 5 years (known as the 5-year bar).<sup>4</sup>

Because DHCS deemed that state-only Medi-Cal is not minimum essential coverage, it has not been sending the [1095-B](#) to beneficiaries who were in state-only Medi-Cal. The 1095-B is the IRS form that must be filed to prove one has health insurance coverage. To make matters worse, DHCS has not notified these beneficiaries that they are subject to the [individual mandate tax penalty](#) or informed them that they are very likely eligible for a hardship exemption and how to get it.

**With so much confusion and so little reliable information out there, it is crucial that we educate consumers on tax penalty exemptions to help them from unnecessarily paying a penalty that they are unable to afford.**

If you encounter this issue with your clients, here are some tips:

1. **Remember the law.** Despite rumors that the federal administration is not enforcing the ACA's individual mandate, the mandate is still law. See, for example, [this explanation](#) of the individual mandate published by the IRS on February 27, 2017. So please encourage your clients not to disregard the importance of seeking an exemption. There are clinics that [provide free tax help](#) for taxpayers who qualify.
2. **File for the tax penalty exemption that is easiest to get.** For some exemptions, like having a household income below the tax filing threshold, individuals simply claim the exemption when filing taxes, if they are filing at all. For other exemptions, individuals must apply with Healthcare.gov and get an exemption certificate. The [instructions to IRS Form 8965](#) that is used to claim an exemption to the individual mandate has a chart which explains how to claim each type of exemption.

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<sup>1</sup> [Minimum essential coverage](#) is a requirement of the Affordable Care Act that all individuals, with exceptions, must have health coverage that meets certain criteria. 26 U.S.C.A. § 5000A. Please note that pregnant women in state-funded Medi-Cal pregnancy programs are an exception. CMS deemed all of [Medi-Cal's pregnancy programs as minimum essential coverage so therefore these practice tips do not apply to them](#).

<sup>2</sup> 22 C.C.R. § 50301(a).

<sup>3</sup> For a full explanation of the immigration categories that are PRUCOL, see [Chapter 1](#), page 1.20-1.21 of our health care eligibility guide.

<sup>4</sup> For an explanation of the 5-year bar to federal benefits, see [Chapter 1](#), pages 1.17-1.19, including footnote 10.

### 3. What are the most common exemption options?

- *Undocumented immigrants*
- *Income too low to file taxes:* For many Medi-Cal beneficiaries, the simplest exemption from the tax penalty is that they did not make enough money to file taxes. For tax year 2016, you do not have to file taxes if you earned less than \$10,350 (single person) or \$20,700 (married). There are some variations for dependents and persons over 65.
- *General Hardship*

### 4. Hardship exemptions may be the best fit.

- *Listed hardship:* Review [the full list of hardships](#) and see if any of them apply. They include reasons such as domestic violence, homelessness, eviction, death in the family, and more. Note that each hardship has documentation requirements, except in the case of domestic violence.
- *Other hardship:* There is a final category for a hardship that is not listed, or Hardship Number 14.

### 5. How to file for the “other” hardship exemption. To claim this exemption your client should:

- Obtain proof of Medi-Cal coverage for the year. For example, Medi-Cal beneficiaries can ask their county to print a notice of action or some other documentation that shows the months of Medi-Cal coverage for everyone in the household who was in state-only Medi-Cal.
  - Advocates can also request Medi-Cal eligibility up to 36 months in the past by sending an [authorization to release information](#) to DHCS Historical Eligibility via email to [hev@dhcs.ca.gov](mailto:hev@dhcs.ca.gov) or fax to (916) 440-5625.
- Include a DHCS document or legal citation that shows your client’s immigration status entitles them to full-scope benefits. Some examples include [ACWDL 15-25](#) (Victims of Trafficking & Domestic Violence), Welf. & Inst. Code §§ 14007.5(b) (PRUCOL) or 14007.5(c) (5-year bar). [This statistical brief](#) also includes explanations in plain English of who is entitled to full-scope state-only benefits and might be simpler if you are having clients do their own exemption request.
- Fill out an [IRS exemption request form](#), and include everyone in the household.
  - Mark “Check if ongoing” box!
- Write out a simple statement that describes the client’s situation. This may be something like:

*I had full-scope Medi-Cal coverage for all of 2016 (see attached proof). California’s Medicaid agency, the Department of Health Care Services, did not certify state-funded, full-scope Medi-Cal as minimum essential coverage, even though it has all of the same benefits and services as other full-scope Medi-Cal programs, which is more than the required essential health benefits. California did not notify me that my Medi-Cal was not minimum essential coverage or that I would be subject to a tax penalty.*

- Make and keep a copy of everything sent, along with proof of mailing.
- Mail the form, the client’s statement, and supporting documents to:

Health Insurance Marketplace -Exemption Processing  
465 Industrial Blvd.  
London, KY 40741

6. **When filing taxes** it is okay if your client has not gotten approval of her exemption by the filing deadline. She can write “pending” under the [Form 8965’s](#) “Exemption Certificate Number” column.
7. **Notify Western Center when you see this problem!** Email Cori Racela at [cracela@wclp.org](mailto:cracela@wclp.org). We are monitoring the minimum essential coverage certification issue and continue to advocate that DHCS should seek certification for state-funded, full-scope Medi-Cal.

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